

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION)	MDL 2804
)	Case No. 1:17-md-2804
THIS DOCUMENT RELATES TO:)	Judge Dan Aaron Polster
<i>County of Cuyahoga v.</i>)	
<i>Purdue Pharma L.P. et al,</i>)	<u>TRACK ONE-B CASE</u>
Case No. 17-op-45004)	<u>MANAGEMENT ORDER NO. 2</u>
)	
<i>County of Summit, Ohio et al v.</i>)	
<i>Purdue Pharma L.P. et al,</i>)	
Case No. 18-op-45090)	

On January 29, 2020, the Court held a case management conference to discuss various issues related to the above-captioned cases (the “Track One-B” cases). Present at the conference were lead and liaison counsel for the Plaintiffs and Plaintiffs’ Executive Committee and the Track One-B Defendants.¹ The purpose of the conference was to discuss the Court’s current trial schedule.

Based on discussions during the conference, the Court now directs the following:

- By **Friday, February 7, 2020, at 12:00 PM**, Plaintiffs shall file a notice that identifies the claim or claims that they intend to assert at trial and dismisses the remaining claims to the extent they have not already been dismissed. Plaintiffs’ notice shall also include their theories of liability for both distribution and dispensing claims, the distinctions between the two theories, and how they intend to prove them. The Court would also

¹ Track One-B Defendants include the various named corporate entities related to or associated with CVS, Discount Drug Mart, HBC, Rite-Aid, Walgreens, and Walmart.

find it helpful for Plaintiffs' notice to include a list of as many of the potential prescription "red flags" as they are currently aware.

- The last bullet point on page six of the Special Master's Discovery Ruling Regarding Pharmacy Data Production (that carries over onto page seven) is hereby amended to read, ". . . no later than **March 20, 2020**, Plaintiffs shall identify for Defendants the prescriptions they (and their experts) conclude should have been 'Red Flagged' as suspicious, and investigated or not filled." Doc. #: 3106 at 6-7 (emphasis added to highlight the change).
- All Track One-B parties shall meet and confer and attempt in good faith to reach agreement regarding how they will refer—in trial and on jury verdict forms—to Track One-B Defendant corporate families in a way that will not overly complicate the trial for the Court or for a jury. The Court strongly endorses a mechanism similar to what the parties agreed to in the first Track One trial whereby each corporate defendant family was referred to by a single corporation name.
- All Track One-B parties shall return to Chambers 18B on **March 26, 2020, at 9:00 AM**, for a follow-up case management conference to continue the dialogue regarding the Court's trial schedule as amended below.²
- The current Track One-B Case Management Order, Doc. #: 2940, is hereby modified as follows. Trial will begin on **Monday, November 9, 2020** for approximately four weeks. The case will be sent to the jury no later than **Monday, December 14, 2020**.

² To be clear, this directive does not obviate the need for the Court's February meeting date. Unless and until it becomes clear that the February date will not be needed, the parties are to keep it clear and on their schedules for possible MDL status meetings.

- All Track One-B parties shall meet and confer with Special Master Cohen who will then determine appropriate deadlines for discovery, substantive and *in limine* motions, and other trial and pretrial submissions that will allow the parties sufficient time to conduct discovery; file motions, responsive briefing, and other documents; and also provide the Court with a reasonable amount of time to rule on those motions.

IT IS SO ORDERED.

/s/ Dan Aaron Polster January 31, 2020
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE